

## Message Text

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E.O. 11652: N/A

TAGS: PGOV, TQ

SUBJECT: PROPOSED LEGISLATION

DOTA NO. 3 352-TT

PASS TO DOTA FRED ZEDER.

FOLLOWING INFORMATION AND VIEWS RELATE TO BOYD MACKENZIE LETTER TO RICE DATED JULY 2, 1976, AND TO DRAFT LEGISLATION ON CHARTERED DISTRICT GOVERNMENTS AND DE-CENTRALIZATION AMENDMENTS TO TITLE 22 OF TRUST TERRITORY CODE. THIS CABLE REPRESENTS VIEWS OF ENTIRE DOTA STAFF WHICH MET TOGETHER AND AGREED ON ALL MATTERS WITH ONE EXCEPTION AS NOTED BELOW. WOULD APPRECIATE YOUR REVIEWING AND TRANSMITTING FINAL DOTA INPUT TO MACKENZIE FOR HIS TESTIMONY AT COM SPECIAL SESSION.

1. CHARTERED DISTRICT GOVERNMENTS. DOTA STAFF RECOMMENDS STRONGLY AGAINST INTRODUCING DISTRICT CHARTER LEGISLATION AT THIS TIME AND WOULD LIKELY RECOMMEND AGAINST PASSAGE OF SUCH LEGISLATION IF ENACTED AT COM INSTANCE. PRIMARY REASON IS ACCOUNTABILITY PROBLEM. DECENTRALIZATION IS A NEW PROGRAM AS WE CURRENTLY ENVISION IT AND AS

CONCURRED IN BY COM. IT IS IN DIRECT RESPONSE TO OVER-  
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SIGHT COMMITTEE HEARINGS AND CONGRESSIONAL MANDATE  
PLACED ON DOTA AND TTPI ADMINISTRATION TO IMPROVE

ACCOUNTABILITY AND MANAGEMENT PRACTICES. LEGISLATION AS DRAFTED OR VARIATIONS OF IT WHICH STILL ALLOW CHARTERED DISTRICT AUTONOMY WILL REMOVE DISTRICT ADMINI-

STRATORS AND DIRECTORS FROM THE CHAIN OF ACCOUNTABILITY TO TTPI ADMINISTRATION AND HICOM TO AN UNACCEPTABLE DEGREE AT THIS TIME GIVEN THAT ENTIRE DECENTRALIZATION APPROACH TO MANAGEMENT PROBLEM IS UNTESTED. BELIEVE THAT IF PROPERLY IMPLEMENTED FUNCTIONAL DECENTRALIZATION PROVES RESPONSIVE TO CONCERNS OF JACKSON COMMITTEE AND ZEDER REPORT, CHARTERED DISTRICT GOVERNMENTS MAY BE ABLE TO FOLLOW AS NEXT LOGICAL STEP IN SEQUENCE POSSIBLY ALONG WITH PHYSICAL DECENTRALIZATION. SECONDLY, ON POLITICAL LEVEL, BELIEVE IT MORE APPROPRIATE TO MOVE IN DIRECTION OF CHARTERED DISTRICTS ONLY AFTER PEOPLES OF MICRONESIA HAVE SPOKEN IN REFERENDUM ON DRAFT CONSTITUTION.

2. FUNCTIONAL DECENTRALIZATION. FOLLOWING COMMENTS ARE KEYED TO PAGES AND LINES OF DRAFT LEGISLATION AMENDING TITLE 22 OF TT CODE AND TO IDENTIFIED NUMBERED PARAGRAPHS IN ACCOMPANYING POLICY STATEMENT ENTITLED "FUNCTIONAL DECENTRALIZATION."

- A) PAGE 1, LINES 13 AND 14, SHOULD READ "...REVENUES IMPOSED BY AND AVAILABLE TO THE GOVERNMENT."
- B) PAGE 2, LINE 10: CHANGE "NATIONAL" TO "CENTRAL" AND DECAPITALIZE CENTRAL AND GOVERNMENT.
- C) PAGE 2, LINE 17: CHANGE "NATIONAL LEGISLATURE" TO "CONGRESS OF MICRONESIA."
- D) PAGE 3, LINES 4-6 SHOULD READ: "...TRUST TERRITORY CODE, THE EXECUTIVE BRANCH OF THE CENTRAL GOVERNMENT OF THE TRUST TERRITORY SHALL BE ORGANIZED AS FOLLOWS:."
- E) PAGE 3, LINES 12-21 SHOULD READ AS FOLLOWS: "(A) THE DEPARTMENT OF EDUCATION SHALL SUPERVISE THE ADMINISTRATION OF THE COMMUNITY COLLEGE OF MICRONESIA, THE MICRONESIAN

OCCUPATIONAL CENTER, THE TRUST TERRITORY SCHOOL OF NURSING, EDUCATION RELATED FEDERAL PROGRAMS, STUDENT SERVICES AND UNCLASSIFIED UNCLASSIFIED

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SCHOLARSHIPS WITH ADVICE AND GUIDANCE FROM THE MICRONESIAN BOARD OF EDUCATION. IT SHALL ALSO PROVIDE PROFESSIONAL AND TECHNICAL SUPPORT TO THE DISTRICTS FOR ELEMENTARY, SECONDARY, ADULT, VOCATIONAL AND TEACHER EDUCATION AS REQUESTED." NOTE: THE DRAFT LEGISLATION AND NARRATIVE SENT TO DOTA WERE INSUFFICIENTLY CLEAR IN

THEIR DELINEATION OF THE NUMBER OF DIVISIONS WHICH ARE CONTEMPLATED IN THE EDUCATION DEPT. IF MORE THAN ONE DIVISION IS PLANNED, SUGGEST AN ADDITIONAL SENTENCE

NAMING THE DIVISIONS BE APPENDED TO THE ABOVE EDUCATION LANGUAGE AS A LAST SENTENCE. WE ASSUME THAT SUPERSESSION LANGUAGE IN SECTION 3 OF BILL WILL COVER ANY INCONSISTENCIES THAT MIGHT EXIST IN TITLE 41 TTC. WE ALSO NOTE THAT IF DISTRICTS ARE TO ESTABLISH ELEMENTARY AND SECONDARY EDUCATION POLICY, SOME EVENTUAL AMENDMENT OR DELEGATION OF AUTHORITY MIGHT NEED TO BE MADE REGARDING TERRITORIAL POLICY ON QUESTION OF MANDATORY SCHOOL AGES.

F) DEPARTMENT OF FINANCE. LANGUAGE IN DRAFT LEGISLATION APPROVED. DOTA STAFF RECOMMENDS A CHANGE IN ACCOMPANYING POLICY NARRATIVE BY ADDITION OF FOLLOWING NEW SUB-PARAGRAPH "(F) THE DISTRICT FINANCE OFFICERS AND THE EMPLOYEES WORKING IN FINANCE FUNCTIONS AT THE DISTRICT LEVEL WILL BE HEADQUARTERS EMPLOYEES AND BE DIRECTLY RESPONSIBLE TO HEADQUARTERS FINANCE." THE REASON FOR THIS CENTRALIZATION OF FINANCE IS TO INSURE THAT THE FMS SYSTEM IS PROPERLY IMPLEMENTED IN ITS FIRST YEAR OR SO OF OPERATION. AFTER THIS INITIAL PERIOD, FINANCE MAY BE APPROPRIATELY DECENTRALIZED.

G) HEALTH SERVICES. DOTA STAFF APPROVES LANGUAGE IN DRAFT LEGISLATION AND IN NARRATIVE.

H) PERSONNEL. DOTA STAFF APPROVES LANGUAGE IN DRAFT LEGISLATION. WITH REGARD TO NARRATIVE POLICY STATEMENT, DOTA STAFF RECOMMENDS SEVERAL CHANGES. PARAGRAPH (A) IS OK. PARAGRAPH (B) SHOULD BE DELETED AND PRESENT APPROVAL AUTHORITY SHOULD REMAIN AT OFFICE OF TERRITORIAL AFFAIRS. IF DISTRICTS ESTABLISH PERSONNEL POLICIES WHICH DIFFER FROM THE CURRENT TERRITORY-WIDE POLICY, THE DOTA LETTER  
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OF DELEGATION OF AUTHORITY ON PERSONNEL MATTERS WILL BE AMENDED TO APPLY TO BOTH DISTRICTS AND HQ. WITH REGARD TO PARAGRAPH (C), DOTA STAFF FEELS THAT ADVICE AND CONSENT RESPONSIBILITY FOR DISTADS AND DEPUTY DISTADS SHOULD REMAIN WITH CONGRESS OF MICRONESIA. IN TESTIMONY, MACKENZIE MIGHT INDICATE THAT APPROPRIATE DISTRICT LEGISLATION EXTENDING DISTRICT LEGISLATURE ADVICE AND CONSENT AUTHORITY OVER DISTRICT DEPARTMENT DIRECTORS AND DEP DIRECTORS WOULD LIKELY BE APPROVED BY ADMINISTRATION. EXCEPTIONS TO DISTRICT LEGISLATURE ADVICE AND CONSENT ARE DFO AND DISTRICT DIRECTOR OF PUBLIC WORKS WHO WILL BE HEADQUARTERS EMPLOYEES. PARAGRAPH (D) INDICATES THAT CONGRESS OF MICRONESIA SHOULD BE APPRISED DURING MACKENZIE TESTIMONY

THAT MAJOR AND COMPREHENSIVE CHANGES AND DELEGATIONS OF AUTHORITY WILL BE NECESSARY IN TRUST TERRITORY

PERSONNEL AND PAY ACTS.

I.) PUBLIC AFFAIRS. DOTA STAFF APPROVES LANGUAGE IN DRAFT LEGISLATION AND IN POLICY NARRATIVE.

J) PUBLIC WORKS. DOTA STAFF DISAGREES WITH PUBLIC WORKS SECTION OF POLICY NARRATIVE. SUPPORTS ZEDER LETTER TO COLEMAN REGARDING THE CENTRALIZATION OF PUBLIC WORKS UNDER WONG. AS DISCUSSED IN ZEDER-BERG TELECON OF JULY 16, RECOMMEND THAT ADMINISTRATION TESTIMONY IN COM SUPPORT ZEDER-COLEMAN LETTER AND THAT LEGISLATION BE DRAFTED APPROPRIATELY TO REFLECT NECESSARY DIVISIONS IN DEPARTMENT. NOTE HERE THAT HQ PW DIRECTOR SHOULD NOT HAVE DIRECT CONTROL OVER OICC ACTIVITIES.

K) RESOURCES AND DEVELOPMENT. DOTA STAFF HAS NO OBJECTION TO PROPOSED BIFURCATION OF DEPARTMENT NOR TO NARRATIVE OR LEGISLATIVE DESCRIPTION OF FUNCTIONS AND DIVISIONS. WE NOTE HOWEVER OUR FEELING FOR ZEDER DECISION THAT THERE IS NO REAL NEED FOR ANY HEADQUARTERS AGRICULTURE FUNCTION SINCE DISTRICT AGRICULTURAL PRIORITIES AND POTENTIALS VARY GREATLY.

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L) TRANSPORTATION AND COMMUNICATIONS. DOTA STAFF HAS NO OBJECTION TO DRAFT LEGISLATION OR TO MOVING COMMUNICATIONS OUT FROM DEPARTMENT TO ADDITIONAL RESPONSIBILITY FOR EXEC. OFFICER. ALSO NO OBJECTION TO POLICY NARRATIVE. WE NOTE THAT PRIOR TO TESTIMONY, MACKENZIE AND HQ PERSONNEL SHOULD REVIEW PROVISIONS OF SECRETARIAL ORDER NO 2969 WHICH TRANSFERS PUBLIC LAND TO DISTRICT LAND AUTHORITIES WHEN ESTABLISHED. THERE ARE PROVISIONS OF THIS ORDER WHICH RELATE TO THE MANAGEMENT OF AIRPORTS AND HARBORS AND THE RESIDUAL POWER OF THE TRUST TERRITORY GOVERNMENT AND THE CONGRESS OF MICRONESIA TO LEGISLATE FOR OFFSHORE AREAS.

M) PAGE 5, LINE 19-23 OF DRAFT LEGISLATION: DOTA STAFF HAS NO OBJECTION TO FUNCTIONS DESCRIBED THEREIN. WE NOTE THAT THE TITLE OF THE COMBINED OFFICE SHOULD BE THE OFFICE OF BUDGET, PLANNING AND STATISTICS RATHER THAN SIMPLY PLANNING AS SET FORTH IN NARRATIVE PARAGRAPH 11.

N) ATTORNEY GENERAL. LINES 4-10 OF PAGE 6 SHOULD READ AS FOLLOWS IN THE LEGISLATION: "...OFFICE OF INVESTIGATION. THE ATTORNEY GENERAL SHALL HAVE ADMINISTRATIVE RESPONSIBILITY FOR THE DIVISIONS AND OFFICES WITHIN HIS OFFICE, HE SHALL HAVE PROFESSIONAL SUPERVISION OVER THE DISTRICT ATTORNEYS, AND, IN HIS CAPACITY AS LEGAL ADVISOR TO THE HIGH COMMISSIONER, SHALL

BE THE TRUST TERRITORY GOVERNMENT OFFICIAL CHARGED WITH

THE RESPONSIBILITY AND AUTHORITY TO ISSUE OFFICIAL OPINIONS  
ON ALL GOVERNMENT LEGAL MATTERS." THIS CHANGE IN THE  
LANGUAGE WHICH IS RECOMMENDED BY DOTA STAFF WOULD REMOVE  
THE LEGAL COUNSELS OF THE OTHER DEPARTMENTS FROM UNDER

THE PROPOSED PROFESSIONAL SUPERVISION OF THE ATTORNEY  
GENERAL BUT WOULD MEMORIALIZE THE PRIMARY GOVERNMENT  
LEGAL STATUS TO BE OCCUPIED BY AG OPINIONS. WITH REGARD  
TO PARAGRAPH 2 OF POLICY NARRATIVE ENTITLED "AUDITOR'S  
OFFICE," NO CHANGE IN THE EXTANT LANGUAGE IS NECESSARY.

DOTA STAFF APPROVES REMAINDER OF LEGISLATION AND POLICY  
NARRATIVE. ACTING DOTA RICE SENDS.

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